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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,233	10/15/2003	Martin Runte	6570P015	8107
45062	7590	08/14/2007		
SAP/BLAKELY 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040			EXAMINER CHEN, QING	
			ART UNIT 2191	PAPER NUMBER
			MAIL DATE 08/14/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	Application No. 10/687,233	Applicant(s) RUNTE ET AL.	
	Examiner Qing Chen	Art Unit 2191	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1-35.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_.



WEI ZHEN  
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: Applicant's arguments are not persuasive.

In the remarks, Applicant argues that:

The Final Office Action at pages 25-26 asserts that the object servers of the Carter reference disclose the software objects as recited. Applicants note that Carter discusses the compatibility of an object server with a previous version of the same object server. Without conceding that Carter's application servers are the same as the objects recited in the independent claims, Applicants submit that the rejection is defective. The Final Office Action fails to make any assertion that objects of different subsystems are disclosed in the cited reference. Applicants submit that an interpretation of the reference as disclosing what is claimed is not supported by the reference.

The Carter reference is concerned with the compatibility of changes to the interfaces of the application servers. See, e.g., col. 1, line 64 to col. 2, line 23. Note that compatibility of the interfaces is essential in the Carter reference to make sure that the object servers (applications) are compatible with other applications. Applicants submit that an application cannot reasonably be understood as a software object as recited in Applicants' claims.

The Final Office Action at page 26 asserts that because the object server is an "executable file," it is a program, and thus a software object. Applicants disagree. The line of reasoning in the Final Office Action is contrary to what would be understood by one of skill in the art, and is therefore an unreasonably broad interpretation. The Final Office Action makes reference to paragraph [0017] of Applicants' Description, which states: "The term 'object', as used herein, means a software object including, but not limited to, function modules, programs, data objects, classes, class components, attributes, etc." Thus, Applicants' disclosure refers to an object as a "program." As a first matter, an application may be referred to in some cases as a "program." However, a program is not necessarily an application. Thus, the expression program does not inherently include applications. Quite the contrary as used in paragraph [0017]. While the term program may include an application in some contexts, in the context of a sentence describing software objects, one of skill in the art would not include applications. Furthermore, in more detailed context referring to "classes, class components, [and] attributes," one of skill in the art would not understand a program to include an application. In the context of paragraph [0017], the term program would be understood by those of skill in the art to be something similar to a "function module," which may include a routine or subroutine callable in an application to perform a certain function, algorithm, method, etc. Thus, a function module or a program may be included within an application. However, no reasonable interpretation of a program here would include the applications of the Carter reference. Thus, the reasoning of the Final Office Action is not logical, and the application of the Carter reference to the claims is misplaced.

As understood from the reference itself, Carter defines incompatibility such that an update or modification to an object server causes the object server to not support the same interfaces as its predecessor object server. See col. 3, lines 29 to 41. The "preferred embodiment" of the so-called "compatibility analyzer" as described at col. 13, line 47 to col. 14, line 16 state: "In the preferred embodiment, version compatibility analyzer 70 performs this comparison by comparing the type information of each class in new object server 64 to the type information of [an] identically named class in existing object server's type library 150." Applicants note the significant absence of any detecting of a change to a software object, in contrast to what is recited in Applicants' claims. As appears from the cited reference, Carter fails to consider changes at all to a software object, and is rather concerned with changes to interfaces applications (specifically, the object servers).

Examiner's response:

Examiner disagrees with Applicant's assertion that an executable file cannot reasonably be understood as a software object. As previously pointed out in the Final Rejection (mailed on 06/04/2007), the executable file of Carter et al. can be interpreted, under the broadest reasonable treatment, as a software object in accordance with the exemplary definition of a software object provided by the originally-filed specification as to include programs. One of ordinary skill in the art would clearly associate an executable file as a program. Furthermore, Carter et al. disclose that after an object server is created, its programmer or developer can distribute the object server in the form of an executable file for user by others. Other developers and end users can then create client applications which make use of the functionality embodied in the object server's objects by accessing those objects through their interfaces (see Column 1: 50-63).